



Department of Public Service

Public Service Commission

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Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW, Suite TW-A325
Washington, DC 205554

October 21, 2016

Re: WC Docket No. 11-42 et al. - Lifeline and Link Up Reform and Modernization –
Comments of the New York Public Service Commission on the Waiver Request of the
United States Telecom Association

Dear Secretary Dortch:

The following comments are submitted on behalf of the New York State Public Service Commission (NYPSC) pursuant to the Federal Communications Commission's (FCC or Commission) Public Notice seeking comment on a Petition for Waiver of Lifeline Eligibility Rules filed by the United States Telecom Association (USTelecom or USTA),¹ regarding Commission rules adopted in the *Lifeline Modernization Order*.² Pursuant to this notice, the

¹ See, WC Docket No. 11-42 et al., Lifeline and Link Up Reform and Modernization, Petition of USTelecom for Waiver of Lifeline Eligibility Rules (filed October 3, 2016).

² See, WC Docket No. 11-42 et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, 4021-4040, paras. 167-216 (issued April 27, 2016) (*Lifeline Modernization Order*).

NYPSC respectfully offers these comments in support of USTA's waiver request, as it applies to New York and as explained more fully below.³

In its April 27 Order, the FCC modified eligibility criteria for the Federal Lifeline Program, among other actions. These modified criteria are currently scheduled to become effective December 1, 2016. In its Petition seeking a waiver, USTelecom requests that the Commission extend the effective date of the new federal eligibility criteria. Specifically, USTelecom requests that this effective date be changed to the earlier of: (1) 18 months from the grant of such waiver; or (2) 60 days after a state notifies the Commission and all eligible telecommunications carriers (ETCs) in that state that it has aligned its eligibility criteria with the federal criteria. USTA argues that if no waiver is granted, states will face a gap between state and federal Lifeline eligibility criteria, which may cause customers to lose Lifeline benefits temporarily, before states can modify their own criteria to match those of the FCC or otherwise provide support for those customers who would otherwise lose access to Lifeline services.

The NYPSC shares USTA's concerns regarding the timeframe for implementing the new federal eligibility criteria. New York currently allows Lifeline service providers to make Lifeline eligibility determinations via an optional automated system maintained by the New York Office of Temporary and Disability Assistance. Incorporating the FCC's changes to Lifeline eligibility criteria will take supporting information technology work, which may be feasible by the December 1, 2016 deadline. However, the December 1, 2016 implementation does not allow New York State sufficient time to deal with wider public policy issues implicated by the *Lifeline Modernization Order*.

³ The views expressed herein are not intended to represent those of any individual member of the NYPSC. Pursuant to the New York Public Service Law (PSL) §12, the Chair is authorized to file comments on behalf of the NYPSC.

New York's current Lifeline eligibility criteria include some conditions that the FCC has now removed. For example, in New York, state funding is currently available to those eligible for Low-Income Home Energy Assistance Program (LIHEAP), Temporary Assistance for Needy Families (TANF) and National School Lunch Program (NSLP), which have been eliminated by the FCC as eligibility criteria. Additionally, New York currently does not include veterans' and survivors' pension benefits, which are now included in the federal criteria. In order to allow for a full examination of whether and/or how New York will modify its Lifeline program, a waiver is appropriate.

New York is the largest recipient of LIHEAP assistance in the nation, and some of these consumers may not qualify for low-income assistance for communications costs under any criteria other than LIHEAP. New York must be allowed additional time to explore if, and to what extent, state funding sources can be used to continue to support these low-income consumers' communications needs. At this time, the NYPSC is not willing to concede that eliminating support for this vulnerable group is the right policy direction for New York.

Postponing the effective date for implementation of the federal eligibility criteria will provide a better opportunity for NYPSC to investigate and resolve these issues. It intends to work diligently to address the outstanding issues and, in light of that effort, the NYPSC respectfully requests a one year delay in the effective date of the new federal eligibility criteria, until December 1, 2017. This will allow states such as New York the opportunity to make reasoned decisions regarding any necessary changes to the state eligibility verification system and processes, NYPSC rules and regulations, and service provider tariffs which may be affected by the FCC's order.

The NYPSC appreciates the opportunity to comment on the waiver request. As discussed herein, NYPSC general supports USTelecom's waiver request and believes that the grant of an extension until December 1, 2017, to implement the revised Lifeline eligibility criteria would allow sufficient time to resolve the challenges faced by New York.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'G. Jesmer', with a long horizontal flourish extending to the right.

Graham Jesmer
Assistant Counsel

On Behalf of:
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